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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re ALLISON H., a Person Coming
Under the Juvenile Court Law.

B277942

(Los Angeles County
Super. Ct. No. DK18376)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent.

v.

JOSEPH H.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Joshua D. Wayser, Judge. Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephanie Jo Reagan, Deputy County Counsel for Plaintiff and Respondent.

Appellant Joseph H. (father) appeals from certain of the juvenile court's findings that were the basis for establishing dependency jurisdiction over his daughter Allison (born July 2016) under Welfare and Institutions Code section 300. We affirm the juvenile court's jurisdictional findings and orders.

BACKGROUND

Detention and section 300 petition

Newborn Allison came to the attention of the Los Angeles County Department of Children and Family Services (the Department) when the Department received a referral alleging that her mother, Candis C. (mother), tested positive for methamphetamine, amphetamines, and benzodiazepine, and that mother had admitted to using these drugs. Allison's drug test was pending.

Mother told the social worker that she had been tired and stressed and had taken methamphetamine to give her energy to clean the house. She began "tripping out," and then took Xanax in order to calm down. Mother admitted using methamphetamine in the past but said she had done so only once while pregnant. She said she had not disclosed her use of methamphetamine and Xanax to anyone else. Mother stated that she suffers from depression, anxiety, and PTSD. Before her pregnancy, she was taking Adderall, Zoloft, and Xanax.

Mother said that she and father were friends, and that father had asked her to have a baby with him because he wanted children. After mother became pregnant, her relationship with father became more serious. Mother stated that her live-in boyfriend, Andrew G., was aware of the pregnancy and of father's paternity. She said Allison was her first child.

Father told the social worker that the last time he was intimate with mother was when she became pregnant. He said he and mother have never lived together and were not in a

relationship. He denied having any knowledge of mother's drug use while pregnant. He stated that he was willing to submit to a drug test but was unwilling to live scan.

Mother's boyfriend, Andrew G., told the social worker that he and mother had been in a relationship for six years and were currently living together. He said that father had asked mother to have his child and that mother had agreed. Andrew said that he smokes marijuana, and that mother smoked marijuana on occasion. He had no knowledge of mother using drugs or alcohol while pregnant.

The Department learned on July 13, 2016 that Allison had tested positive for benzodiazepine and amphetamines. In addition, a criminal history check revealed that father was a registered sex offender and had been convicted of sexual battery. Father said the offense had been expunged and provided the social worker with a court order vacating the conviction. Father said he has no substance abuse history, no domestic violence history, and no medical or mental health issues.

Father told the social worker he was willing to care for Allison if mother could not do so. He said his initial plan had been for mother to be the primary caregiver and for father to have Allison on the weekends. He denied any knowledge of mother's drug use. Father stated that he lived with his mother, his mother's boyfriend, and his son Jasin. Father stated he has full custody of Jasin. A subsequent child welfare history search revealed substantiated allegations of general neglect by Jasin's mother shortly after Jasin's birth in August 2009.

On July 14, 2016, the Department obtained an expedited warrant to detain Allison from mother's and father's custody. The Department placed Allison with the paternal grandfather and his wife.

On July 19, 2016, the Department filed a petition under section 300, alleging that mother's history of substance abuse and current abuse of methamphetamine and benzodiazepine, resulting in positive toxicology screens for mother and Allison, as well as mother's mental and emotional problems, placed the child at risk of serious physical harm. The petition further alleged that father failed to protect Allison when he reasonably should have known of mother's substance abuse.

At the July 19, 2016 detention hearing, the juvenile court ordered Allison detained from mother and released to father's custody. Mother was accorded monitored visits.

Jurisdiction/disposition

In its September 13, 2016 jurisdiction/disposition report, the Department reported that mother had been psychiatrically hospitalized on August 7, 2016, after taking methamphetamine and Xanax during an attempted suicide. Mother stated: "I didn't really want to kill myself. It was a cry for attention. I was depressed over my baby being taken away from me, and I didn't want to end up like my mom and have my parental rights terminated."

Mother said she began using methamphetamine when she met Andrew G., with whom she had been in an off and on relationship for seven years. She said Andrew was a drug addict, and that his drugs of choice include methamphetamine, cocaine, ecstasy, valium, alcohol, and marijuana. Mother said she and Andrew were no longer living together. Mother admitted taking methamphetamine once during her pregnancy, because she had stopped taking Zoloft and Adderall while pregnant, and "figured it was the same thing as Adderall." She denied having a substance abuse problem.

Mother said she met father on Facebook in 2009 and that the two had been friends for a long time. She described their current relationship as boyfriend and girlfriend.

In an August 31, 2016 interview, father again denied knowledge of mother's drug use during her pregnancy. He stated that mother had made "quite an effort to stay away from any substances during her pregnancy." He did not believe mother had a substance abuse problem and stated:

"As I understand it, she did a line of meth to get things done. She knew it was chemically the same thing as Adderall. She used meth recreationally before, and she said meth had the same effect on her as Adderall. She didn't have her prescription and they were the same thing. . . . She took a little bit (of methamphetamine) to get focus. She wanted to make sure to get ready for the baby. I know she didn't take it more because the baby had no withdrawal symptoms. She took the meth because she was trying to nest and get ready for the baby, not to numb out or zone out. She wasn't trying to hurt the baby, she thought it was the same thing as taking her Adderall. . . . She takes Xanax only when she needs it. She gets really stressed out and can't function sometimes. She takes her Xanax, and it helps. I don't see her abusing it at all."

With regard to mother's emotional and psychiatric problems and her recent suicide attempt, father stated: "She's always been a drama queen. . . . She flipped out to get some power back, some sympathy, or some attention. Maybe she took a few extra Xanax and played like suicide, but they overacted. She always tries to break up with me to test the boundaries and see what I'd do and see how much I care for her."

Father said that he met mother before his son Jasin was born. After his relationship with Jasin's mother ended, father

and mother became better friends and he began to help mother with loans and with references for employment and housing. Their relationship became sexual and mother became pregnant.

Father said his son Jasin is from a previous relationship with a woman he met online in 2008. Jasin's mother lived with father during her pregnancy, but the relationship ended before Jasin was born. Father said that he learned that Jasin's mother was a methamphetamine addict when the Department detained Jasin. He stated, "I'm attracted to damsels in distress that don't have it together. I want to help them."

In its jurisdiction/disposition report, the Department expressed concerns about father's ability to protect Allison from mother's substance abuse. The Department stated that father appeared to be minimizing mother's substance abuse and mental health problems and noted that Jasin's mother had lost custody of the child because of her methamphetamine abuse. The Department further noted that mother and father had given inconsistent reports about the nature of their relationship, and appeared willing to collude in order to deceive the social worker.

At the September 13, 2016 jurisdiction hearing, the juvenile court received into evidence the Department's reports and heard argument from the parties. Father's counsel argued that the evidence did not support a finding that father knew or should have known of mother's substance abuse history or her use of drugs during her pregnancy, as father had never lived with mother. Counsel for Allison and for the Department both argued that father should have known about mother's substance abuse.

After hearing argument from the parties, the juvenile court found the following allegations regarding father under section 300, subdivision (b) to be true:

"The child Allison [H.]'s mother, Candis [C.], has a history of substance abuse, including marijuana and is a current abuser of

methamphetamine and benzodiazepine, when renders the mother incapable of providing regular care for the child. The child is of such a young age requiring constant care and supervision and the mother's substance abuse interferes with providing regular care and supervision of the child. The mother used illicit drugs during the mother's pregnancy with the child. On 7/12/16, the mother had a positive toxicology screen for amphetamine [and] methamphetamine [] at the child's birth. The child's father, Joseph [H.] failed to protect the child when the father reasonably should have known of the mother's substance abuse. Such substance abuse by mother and the father's failure to protect the child endangers the child's physical health and safety and creates a detrimental home environment for the child, placing the child at risk of serious physical harm, damage, danger and failure to protect."

The court sustained the petition, declared Allison a dependent of the juvenile court, and ordered her placed in father's custody pursuant to a home of parent father order, subject to the Department's supervision. The juvenile court further ordered father to cooperate with the Department and to participate in developmentally appropriate parenting classes. The court accorded mother monitored visits and gave the Department discretion to allow father to serve as the monitor.

This appeal followed.

DISCUSSION

I. Justiciability of father's appeal

In this appeal, father challenges the sufficiency of the evidence as to his conduct only -- he makes no challenge to the jurisdictional findings against mother or to the juvenile court's dispositional order. The Department argues that because the issues raised in father's appeal have no effect on either the

juvenile court's assumption of dependency jurisdiction or the dispositional order, father's appeal is not justiciable because it will have no practical impact.

A juvenile court need only find that one parent's conduct has created circumstances triggering section 300 in order for the court to assume jurisdiction over the child. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491.) "For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is "good against both. More accurately, the minor is a dependent if the actions of either parent bring [him] within one of the statutory definitions of a dependent." [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. [Citations.]" (*Id.* at p. 1492.)

An appellate court may, however, address the merits of the jurisdictional findings against one parent when that finding could be prejudicial to the parent, could potentially impact the current or future dependency proceedings, or could have other consequences for the parent beyond jurisdiction. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763 (*Drake M.*) In *Drake M.*, the father challenged a single jurisdictional finding against him involving his use of medical marijuana. Because this single jurisdictional finding was the difference between the father being an offending versus a nonoffending parent, the court in *Drake M.* decided to address the merits of the father's appeal:

"Here, the outcome of this appeal is the difference between father's being an 'offending' parent versus a 'non-offending' parent. Such a

distinction may have far-reaching implications with respect to future dependency proceedings in this case and father's parental rights. Thus, although dependency jurisdiction over Drake will remain in place because the findings based on mother's conduct are unchallenged, we will review father's appeal on the merits."

(*Drake M.*, *supra*, 211 Cal.App.4th at p. 763.)

For similar reasons, we exercise our discretion to address the merits of father's appeal in this case.

II. Jurisdictional findings

A. Standard of review

We review the juvenile court's jurisdictional findings under the substantial evidence standard. (*In re David M.* (2005) 134 Cal.App.4th 822, 829; *In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) Under this standard, we review the record in the light most favorable to the juvenile court's findings to determine whether there is any reasonable, credible, and solid evidence to support the juvenile court's conclusions, resolving all conflicts in the evidence, and making all reasonable inferences from the evidence in support of the court's orders. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.)

B. Substantial evidence supports the jurisdictional findings as to father

Substantial evidence supports the juvenile court's findings that father failed to protect Allison when he reasonably should have known of mother's substance abuse. Although father claims he and mother were not in a relationship, that he did not know mother was pregnant with his child until Allison was born, and that he had no reason to know mother was abusing substances before and during her pregnancy, the evidence in the record contradicts those claims. Mother stated that she first met father in 2009 and that they had been friends for a long time. She

described their current relationship as “boyfriend and girlfriend.” Mother further stated that after she became pregnant, her relationship with father became more serious. Father, too, acknowledged that he and mother had known each other for many years, that their relationship became sexual, and that mother became pregnant. Mother and Andrew both stated that father had asked mother to have his child and that mother had agreed. Although father disclaims any knowledge of mother’s pre-pregnancy drug use, he told the social worker that mother had made “quite an effort to stay away from any substances during her pregnancy.” Father also acknowledged that mother had used methamphetamine recreationally before she became pregnant. Father had previous experience with substance abuse during his relationship with Jasin’s mother, who lost custody of Jasin because of her methamphetamine addiction. Father claimed he did not learn of Jasin’s mother’s addiction until the Department detained Jasin, but he also told the social worker, “I’m attracted to damsels in distress that don’t have it together. I want to help them.”

Finally, father minimized mother’s drug use and the Department’s concerns about child safety issues. When mother felt overwhelmed and unprepared for the baby, father said “she did a line of meth to get things done.” Father then defended mother’s methamphetamine use, stating, “[s]he used meth recreationally before, and she said meth had the same effect on her as Adderall. She didn’t have her prescription and they were the same thing She took a little bit (of methamphetamine) to get focus. . . . She took the meth because she was trying to nest and get ready for the baby, not to numb out or zone out. She wasn’t trying to hurt the baby, she thought it was the same thing as taking her Adderall.”

In light of the evidence, the juvenile court was entitled to discount father's disclaimers regarding the nature of his relationship with mother and his knowledge of mother's drug use. Resolving conflicts in the evidence, assessing the credibility of witnesses, and evaluating the weight of the evidence are matters exclusively within the province of the juvenile court. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.) Substantial evidence supports the juvenile court's jurisdictional findings as to father.

DISPOSITION

The juvenile court's jurisdictional findings and orders are affirmed.

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_____, J.
CHAVEZ

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
HOFFSTADT